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Referred: Health, Welfare
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1 IN THE HOUSE

2 HOUSE BILL NO. 235

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to obscenity."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 11.40 is amended by adding a new section to read:

9 Sec. 11.40.195. OBSCENITY. (a) It is unlawful for a person
10 with knowledge of the obscene nature thereof to

11 (1) sell, deliver or provide, or offer or agree to sell,
12 deliver or provide any obscene writing, picture, record or other
13 representation or embodiment of the obscene; or

14 (2) present or direct an obscene play, dance or other
15 performance or participate directly in that portion thereof which
16 makes it obscene; or

17 (3) publish, exhibit or otherwise make available anything
18 obscene; or

19 (4) perform an obscene act or otherwise present an obscene
20 exhibition of his body for gain; or

21 (5) create, buy, procure or possess obscene matter or
22 material with intent to disseminate it in violation of this section; or

23 (6) advertise or otherwise promote the sale of material
24 represented or held out by him to be obscene.

25 (b) A thing is obscene if, considered as a whole, its predominant
26 appeal is to prurient interest, that is, a shameful or morbid interest
27 in nudity, sex or excretion, and if it goes substantially beyond cus-
28 tomary limits of candor in description or representation of those
29 matters. A thing is obscene if the obscenity is latent.

HB 235

1 (c) In a prosecution for an offense under this section, obscenity
2 shall be judged with reference to ordinary adults, except that it shall
3 be judged with reference to children or other especially susceptible
4 audience if it appears from the character of the material or the cir-
5 cumstances of its dissemination to be especially designed for or
6 directed to a special audience. Evidence admissible in any prosecution
7 under this section includes, but is not limited to

8 (1) the character of the audience for which the material
9 was designed or to which it was directed;

10 (2) what the predominant appeal of the material would be for
11 ordinary adults or a special audience, and what effect it would probably
12 have on the behavior of the people for whom it was designed or directed;

13 (3) the artistic, literary, scientific, educational or other
14 merits of the material;

15 (4) the degree of public acceptance of the material in this
16 state;

17 (5) the appeal to prurient interest, or the lack thereof, in
18 advertising or other promotion of the material; and

19 (6) the purpose of the author, creator, publisher, or dis-
20 seminator.

21 (d) It shall be an affirmative defense to obscenity that the
22 dissemination

23 (1) was not for gain and was made to personal associates
24 other than children under 18 years of age; or

25 (2) was to institutions or individuals having scientific or
26 other special justification for possession of obscene material.

27 (e) The creation, purchase, procurement or possession of a mold,
28 engraved plate or other embodiment of obscenity specially adapted for
29 reproducing multiple copies, or the possession of more than three copies

1 of obscene material shall be prima facie evidence of an intent to
2 disseminate.

3 (f) A person who violates a provision of this section is guilty
4 of a misdemeanor, and upon conviction is punishable by imprisonment
5 for not more than one year, or by a fine not to exceed \$1,000, or by
6 both. Upon a second or subsequent conviction under this section, the
7 person is guilty of a felony, and upon conviction is punishable by
8 imprisonment for not more than three years, or by a fine not to exceed
9 \$5,000, or by both.
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